

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Shields Auto Center, Inc.
DOCKET NO.: 05-00083.001-C-1 and 05-00084.001-C-1
PARCEL NO.: 20-09-03-228-016 and 20-09-03-204-029

The parties of record before the Property Tax Appeal Board are Shields Auto Center, Inc., the appellant, by attorney William R. Scott of Allen & Korkowski & Associates, Rantoul, Illinois; and the Champaign County Board of Review.

The subject property is comprised of two parcels that are improved with an automobile dealership. The parcels total 110,900 square feet of land area and are improved with three structures. The 4,480 square foot frame and metal office and showroom was built in approximately 1986. The 10,800 square foot concrete block and metal service area and parts room was built in approximately 1944. This building is in poor condition. There is also a 6,000 square foot metal building that is approximately 50 years of age.

The appellant, through counsel, appeared before the Property Tax Appeal Board claiming overvaluation as the basis of the appeal. In support of this claim, the appellant submitted a contract for the sale of the subject's real estate between G.W. Manley and Rantoul Motor Sales, Inc., the seller, and Shields Auto Center, Inc., the buyer. The contract price was \$325,000. Closing occurred on or about November 1, 2004. The contract language provides that at the closing, the buyer shall pay \$25,000 to the seller with the balance of the purchase price together with interest of 5% per annum shall be paid by the buyer executing its note in the form attached hereto as Exhibit A [not attached or included or included as part of the Exhibit]. The note shall be secured by a first mortgage in favor of the seller. The appellant's appeal petition indicates the transaction was not between related parties or related corporations; the property sold by owner through a seller financed installment contract; and the subject property was not advertised for sale.

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Champaign County Board of Review is warranted. The correct assessed valuation of the property is:

<u>DOCKET NO.</u>	<u>PARCEL NO.</u>	<u>LAND</u>	<u>IMPRV.</u>	<u>TOTAL</u>
05-00083.001-C-1	20-09-03-228-016	\$59,040	\$25,420	\$84,460
05-00084.001-C-1	20-09-03-204-029	\$40,860	\$29,110	\$69,970

Subject only to the State multiplier as applicable.

The first witness called on behalf of the appellant was G. Warren Manley, former owner and financier of the subject's property installment contract. Manley owned and operated an auto dealership for 36 years. The witness was directed to a document submitted in rebuttal that was titled "Automobile Dealership Purchase Agreement" dated September 23, 1992, of which only pages 1, 8, 9, and 13 were provided. The agreement was between Rantoul Motor Sales, Inc. (the seller); G. W. Manley, the sole shareholder of Seller; and F. Duane Shields personally, but as Agent for a corporation to be formed (buyer). The agreement was for the purchase of certain assets associated with the dealership, including but not limited to all rights permits and authorization for the operation of the dealership; all trade fixtures and furnishings of the dealership except those items listed on Exhibit "A"; all machinery, equipment and tools used in conjunction with the dealership together with replacements thereof and additions thereto; all of seller's inventory of new, untitled and undamaged 1992 and 1993 vehicles and all the Seller's demonstrator vehicles; and all inventory of parts, supplies, accessories, oil and grease of the dealership together with replacements. The real estate component was not part of this transaction, but was subject to a real estate lease. The lease continued for 10 years after the "Automobile Dealership Purchase Agreement" and then continued on a month to month basis for three years at a lesser rental rate.

During the month-to month-lease time period, Manley testified he attempted to sell the subject parcels exclusively to the appellant. Manley testified he reduced the subject's lease rate because he had heard rumors the appellant was going to build a new automobile dealership near the interstate and Wal-Mart. Manley testified the appellant owns a large portion of land in that particular area. Manley also provided testimony regarding the negative economic impact resulting from the closure of Chanute Air Force Base in 1993. He testified the base closure caused a loss of approximately \$500,000 due to declining real estate values and a loss of one-half of the business from Chanute Air Force Base personnel.

Manley testified the only use of the structures on the property is for an automobile dealership. For clarification, counsel asked Manley if the highest and best use of the subject property is an automobile dealership. In response, Manley testified he did not try to sell the subject property to anyone else and he did not need a real estate agent to sell the subject property. Manley also testified that while negotiating the subject's sale price, there were no other factors or deals with respect to the parties' existing relationship that affected the final sale price. Manley reiterated the transaction proceeded based on the terms of the signed contract including 5% interest for the unpaid balance, which he considered "in the area but maybe low" of

typical commercial loan interest rates. Manley testified he would "wake up in the middle of the night worrying about whether he (the appellant) would move out near the interstate or buy my property." Manley noted there is still empty real estate throughout Rantoul due to the base closure.

The witness also discussed the condition and utility of the structures situated on the subject parcels. Apart from the appellant, Manley opined "nobody" could possibly be a buyer for the subject. In his mind, there was no pool of potential buyers for the subject and automobile dealership sales in various communities throughout Illinois would not be a good indicator of the subject's value. Manley also testified there was one automobile dealership in Rantoul that closed operations. This property was never sold for use as an automobile dealership, but used for storage. When Manley was asked if he attempted to sell the subject property for the highest possible price, the witness testified the buildings are of cheap construction. He also testified he was not under any financial pressure to sell the subject property, but he "was paying the property taxes", which he thought "were probably assessed about right, but less than what you could turn around and sell his property for."

Under questioning from the hearing officer, the subject's highest and best use as an automobile dealership was discussed. The witness is not an expert in the field of real estate valuation. The witness testified when Chanute Air Force Base was still in operation they had a \$200,000,000 payroll, which accounted for 50% of the subject's business. The witness testified he offered to sell the subject property to only the appellant, which sold after three years of negotiations. He testified he did not even consider selling the subject property to anyone but the appellant. Additionally, Manley testified he did not offer the subject for sale in the open market using a "for sale" sign or real estate agency. The witness testified he "had been a real jerk for 10 years because the appellant paid him big money" during the term of the lease. The witness reluctantly acknowledged he had a 10 to 13 year business relationship with the appellant in leasing the property prior to its sale. He agreed he may have been under duress to sell the subject property due to his worries that the appellant may move and build another auto dealership near the interstate and Wal-Mart.

Under redirect examination, the appellant testified the only other possible use of the subject maybe as an auto body repair shop. He also discussed his familiarity with other commercial properties within Rantoul. Franchise branding, the number of automobile dealerships, and competition with automobile dealerships in Rantoul was discussed, focusing on one dealership that had gone out of business in 1981.

Counsel next presented an affidavit of Frederick D. Shields that was submitted as rebuttal for the record. Frederick D. Shields was not present at the hearing. The document states in summarized part:

1. Frederick D. Shields is an officer of Shields Auto Center, Inc.
2. In or around 1992, two separate "Automobile Dealership Purchase Agreements" were entered into which the assets of two car dealerships were sold to F. Duane Shields, a shareholder of the appellant. Said agreements, which conditioned the obligations of the parties to close the "Dealership Purchase Agreements" on closing of lease of the real estate, which is now subject of this appeal.
3. The lease, which included the real estate that is subject to this appeal, and other real estate, expired in April 2003 and was continued on a month-to-month basis thereafter.
4. The subject property has been used as an automobile dealership in excess of 40 years, and because of the nature of the buildings and improvements, the highest and best use for the property would be an automobile dealership.
5. The then owner, Mr. Manley and his related entity, and the appellant negotiated for a period of one and one-half years in an effort to reach an agreement for the sales of the real estate that is the subject of this appeal.
6. During the negotiations and continuing to the present, there was absolutely no relationship between G.W. Manley and Rantoul Motor Sales, Inc. on one hand, and the appellant on the other. . . Nor is there any other ongoing business relationship between the parties that would have affected the terms of the sale.
7. The board of review claims that the sale was not arm's-length because the property was not listed for sale with a broker and the seller financed \$300,000 of the purchase price at 5% per annum. Obviously 5% per annum is a modest rate of interest. Comparable loans that would have been provided by commercial banks are closer to 7%. If the buyer would have been required to go to a bank to finance the purchase, they would have paid more in carrying charges and thus would have been willing to pay less for the property. Thus, the price paid may be somewhat artificially high as a result of the lower interest rate.
8. Mr. Manley obtained an appraisal of the real estate that was higher than the ultimate price agreed to by the parties only serves to prove that appraisals are an opinion of value and not the ultimate indication of what properties are worth.

Based on this evidence, the appellant requested a reduction in the subject's assessment.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject parcels' final equalized assessments totaling \$154,430 was disclosed. The total assessment reflects an estimated market value of \$465,010 using Champaign County's 2005 three-year median level of assessments of 33.21%.

Based on the circumstances surrounding the subject's sale, the board of review argued the subject's transaction was not arm's-length. The board of review argued the evidence submitted and Manley's testimony indicates the property was not advertised for sale; there was a certain element of duress by the seller with the possibility of the appellant moving the automobile dealership to a different location; and there was a pre-existing relationship between the buyer and seller because the subject property was being leased for over ten years by the seller to the buyer for "some pretty big money," which was certainly taken into account when arriving at the final purchase price.

In support of the subject's assessed valuation, the board of review submitted an appraisal report estimating the subject's fair market value of \$475,000 as of January 1, 2004, using all three traditional approaches to value. The appraisal was prepared for Duane Shields of Shields Auto Center. The appraiser was not present at the hearing for direct or cross-examination regarding the appraisal methodology and final value conclusion. The board of review argued the appraisal was prepared by a reputable local appraiser nine years after the closure of Chanute Air Force Base.

The board of review next explained the subject parcels under this appeal were created by combining eight parcels. Parcel Number 20-09-03-204-029 (Docket Number 05-00084.001-C-1) was created by combining five parcels. Parcel 20-09-03-228-016 (Docket Number 05-00083.001-C-1) was created by combining three parcels. (Exhibit C) The appellant's purchase price of \$325,000 encompassed all eight parcels as verified by the Illinois Real Estate Transfer Declaration. (Exhibit A) However, the board of review explained the aforementioned appraisal only valued seven of the eight parcels. Former parcel number 20-09-03-228-015 was not included in the appraised value. The board of review indicated this parcel had an assessment of \$25,000 or an estimated market value of \$75,000 prior to its combination with two other parcels to create parcel number 20-09-03-228-016. The evidence also revealed the appellant used the appraisal in a 2004 assessment complaint before the Champaign County Board of Review, in which assessment relief was granted. Based on this evidence, the board of review requested confirmation of the subject's assessment.

Rick Shields was next called as a rebuttal witness. Shields testified neither he nor his father commissioned the appraiser to

estimate a value for the subject property. Shields testified Manley had the appraisal prepared from an outside source in an attempt to procure the highest possible sale price for the subject property. The hearing officer noted the appraisal indicated the report was prepared for Duane Shields of Shields Auto Center to be used for a tax appeal. Shields next testified the appraisal was used purely because it was the only evidence at the time to refute the value assigned to the subject property by the county assessment officials that was between \$750,000 and \$800,000, which he opined to be ridiculous. Shields testified the best evidence of the subject's value was its \$325,000 sale price. Shields also opined any other potential buyer of the subject, other than Shields Auto Center, would bulldoze the structures, which would require disposal fees. Shields also testified new construction in Rantoul is occurring near the interstate.

At the hearing, the appellant attempted to submit a new appraisal that was procured by Manley. An objection was raised by the board of review. The objection was sustained. The Property Tax Appeal Board finds it cannot consider this new evidence. Section 1910.66(c) of the Official Rules of the Property Tax Appeal Board states:

Rebuttal evidence shall not consist of **new evidence such as an appraisal** [emphasis added] or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence. (86 Ill.Adm.Code §1910.66(c)).

During closing, appellant's counsel argued there was an automobile dealership in Rantoul with newer buildings than the subject that closed in 1981. This property has never been sold for anything other than storage. Counsel argued that Manley has been in business and has seen what happens to commercial property if you lose the business of an automobile dealership. Counsel noted the highest and best of the subject contained in the appraisal submitted by the board of review is its continued use as an automobile dealership. Counsel argued that if the subject was not sold as an automobile dealership, its value cannot be realized based on its highest and best use. Counsel argued there was uncontroverted testimony that one dealership had already closed operations. In essence, counsel argued there is no market for a third automobile dealership in Rantoul. Counsel argued the only potential buyer of the subject was Shields Auto Center, who had been leasing the property.

With respect to the income approach to value contained within the appraisal report, counsel noted the appraiser used a \$4,000 per

month rental rate based on a lease offering rate that was being negotiated. Counsel argued the subject was actually leased for \$2,666 per month during the three-year period when negotiations for the sale were ongoing. With respect to land sales, counsel argued the appraiser ignored the fact that Manley purchased land sale 12 for \$1.21 per square foot of land area, yet the appraiser valued the subject parcels at \$1.40 and \$2.00 per square foot of land to area, respectively. Counsel also argued automobile dealership sales that occurred in the Illinois communities of Effingham, Champaign, Marshall, Hoopeston, Ashmore, and Mattoon between 1999 and 2003 have absolutely nothing to do with commercial real estate values in Rantoul, Champaign County. None of these communities underwent a military base closure. Counsel argued the two entities were dealing at an arm's-length nature. Counsel conceded Manley may have been put at a competitive disadvantage during negotiations because the only potential buyer on the horizon was the occupant, Shields Auto Center, who may have other options. Counsel argues this fact may have affected the value of the subject. In conclusion, counsel argued the buyer and seller were willing participants to the transaction.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax Appeal Board further finds no reduction in the subject property's assessment is warranted.

Before turning of the facts, the Property Tax Appeal Board finds it must be noted that no objection as to the admissibility of the Shields affidavit was raised at the hearing. This affidavit, however, has not been viewed as a suitable substitute for in person testimony and its contents were summarized merely for a better understanding of the purported relationships between the parties. No substitute or relevant evidence for purposes of deciding this matter have been drawn from the affidavit.

The appellant argued the subject property's assessment was not reflective of its fair market value. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 183, 728 N.E.2d 1256 (2nd Dist. 2000). The Board finds the appellant failed to overcome this burden.

The Property Tax Appeal Board finds the arm's-length nature of the subject's transaction and sale price to be questionable and highly suspect at best. The Illinois Supreme Court defined fair cash value as what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced to do so. Springfield Marine Bank v. Property

Tax Appeal Board, 44 Ill.2d. 428 (1970). The evidence and testimony in this record clearly shows the subject property was not advertised for sale on the open market for a competitive open bidding process. The Property Tax Appeal Board finds without marketing the subject, at least on a regional basis, leads to an unknown factor as to the highest possible sale price for the subject and further calls into question the \$325,000 transaction price. Furthermore, the Board finds it is not typical in real estate transactions for the seller to finance the unpaid balance of the purchase price, regardless of the interest rate. In addition, the Board finds the parties of the transaction had an ongoing pre-existing business relationship based on a ten year lease that extended on a month-to-month basis for an additional three years at a reduced rental rate. As a result of this analysis, the Board finds the circumstances surrounding the subject's sale is not demonstrative of an arm's-length transaction.

The appellant's counsel also argued the comparable sales contained in the appraisal offered by the board of review are located in varying communities in Illinois and have absolutely no relevance with commercial real estate values in Rantoul, Champaign County. The Board finds this claim has no legal merit. The courts have stated that where there is credible evidence of comparable sales these sales are to be given significant weight as evidence of market value. Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App.3d 207 (1979) and Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (1989). The Board finds there are credible market sales contained in the record, specifically in the appraisal offered by the board of review. The Board further finds the appraisal is probative evidence regarding the subject's fair market value. In fact, the Board finds the appellant used said appraisal to receive an assessment reduction the prior year from the Champaign County Board of Review. The Board finds it to be disingenuous of the appellant to now argue the appraisal value is not relevant or reflective of the subject's value just one year later. The Board finds the appraisal report contains raw sales data for six automobile dealerships with varying degrees of similarity when compared to the subject. They sold between 1999 and 2003 for prices ranging from \$375,000 to \$1,350,000. Three of the sales occurred from June to September 2003 for prices ranging from \$375,000 to \$600,000. The subject's assessment reflects an estimated market value of \$465,010. After considering adjustments to these comparables for differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is supported. Therefore, no reduction is warranted.

The appellant also made ancillary arguments regarding the income approach to value contained within the appraisal offered by the

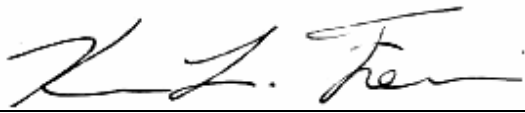
board of review. Specifically, the appellant argued the appraiser used a lease offering rate of \$4,000 per month rather than the actual lease rate of \$2,666 per month. The Board gave this argument little weight. Although rental income may be a relevant factor in determining the value of a property from an investor's standpoint, it is the capacity for earning income, rather than income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428, 431 (1970). After reviewing the income approach within the appraisal, the Property Tax Appeal Board finds the report cites market rental rates of similar types of property to establish the subject's rental rate, which supports the \$4,000 per month rental rate utilized by the appraiser.

In conclusion, the Board finds the evidence in this record does not demonstrate the subject property is overvalued by a preponderance of the evidence. Therefore, the Board finds the subject property's assessment as established by the board of review is correct and no reduction is warranted.


This is a final administrative decision of the Property Tax Appeal Board are subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 28, 2007



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.